

HOUSE No. 1933

By Mrs. Gomes of Harwich, petition of Shirley Gomes and others relative to mandatory boating safety education. Public Safety and Homeland Security.

The Commonwealth of Massachusetts

PETITION OF:

Shirley Gomes
Michael J. Coppola

Matthew C. Patrick

In the Year Two Thousand and Five.

AN ACT RELATIVE TO MANDATORY BOATING SAFETY EDUCATION.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 90B of the General Laws is hereby amended by adding
2 the following 7 sections:—

3 Section 39. As used in sections 39 to the following terms shall
4 have the following meanings:—

5 “Boating Certificate”, a boating safety education certificate
6 issued to a person who has met the established minimum standard
7 of boating safety education competency.

8 “Motorboat”, any vessel propelled by machinery whether or not
9 such machinery is the principal source of propulsion and shall
10 include a pleasure vessel which has a valid marine document
11 issued by any authorized federal agency.

12 “Personal Watercraft”, any vessel propelled by a water jet
13 pump or other machinery as its primary source of motor propul-
14 sion which is designed to be operated by a person sitting, standing
15 or kneeling on the vessel rather than being operated in the conven-
16 tional manner by a person sitting or standing inside the vessel.

17 “Non-resident”, a person residing outside Massachusetts, or
18 residing in Massachusetts for a period of less than 6 consecutive
19 months.

20 “Division”, the office of law enforcement within the executive
21 office of environmental affairs.

22 “Director”, the director of the office of law enforcement within
23 the executive office of environmental affairs.

24 Section 40. The director shall establish and implement a
25 boating education program. In establishing such a program the
26 director shall:

27 1. Set a minimum standard of boating education competency
28 which shall be consistent with the applicable standard established
29 by the National Association of State Boating Law Administrators
30 (NASBLA). The director may update the minimum standard of
31 competency as necessary.

32 2. Develop a boating education course, designed to meet the
33 minimum standard of competency established pursuant to subsec-
34 tion (1) of this section.

35 3. Develop a boating education equivalency examination
36 designed to test knowledge which meets the minimum standard of
37 competency established pursuant to subsection (1) of this section.

38 4. Develop a boating certificate designed to meet the purposes
39 of this act.

40 5. Evaluate and approve other boating safety courses that meet
41 the minimum standard of competency in conjunction with
42 NASBLA.

43 6. Establish a one-time fee of not more than \$25 for the boating
44 certificate, and a reasonable fee for a duplicate.

45 Section 41. A person born on or after January 1, 1988 shall not
46 operate a motorboat on the waters of the Commonwealth, unless
47 such person obtains by January 1, 2007, a boating certificate as
48 evidence of successful passage of an approved boating safety
49 course or equivalency examination pursuant to section 40.

50 A person shall not operate a personal watercraft on the waters
51 of the Commonwealth, unless such person obtains by January 1,
52 2010, a boating certificate as evidence of successful passage of an
53 approved boating safety course or an equivalency examination
54 pursuant to section 40. Nothing in sections 39 to 42 shall
55 supercede the requirements for operators of personal watercraft
56 established in section 9A and 9B of chapter 90B.

57 The director may issue a boating certificate to any person at
58 least 12 years of age who:

59 a. Shows evidence of having successfully completed a boating
60 safety course approved by the director, or shows evidence of
61 having successfully completed a boating safety equivalency exam-
62 ination approved by the director and

63 b. Pays the established fee for the certificate to the division.

64 Section 42. A person required to obtain a boating certificate
65 shall possess such certificate when operating a motorboat and
66 shall present such certificate upon the request of a law enforce-
67 ment officer duly empowered to enforce Chapter 90B. Failure to
68 present a valid certificate or its' equivalent to such a law enforce-
69 ment officer shall constitute prima facie evidence of a violation of
70 this section.

71 No person shall alter, forge, counterfeit, or falsify a boating
72 certificate.

73 No person shall possess a boating certificate that has been
74 altered, forged, counterfeited or falsified.

75 No person shall loan or permit his/her boating certificate to be
76 used by another person.

77 No motorboat owner shall permit another person to operate
78 his/her motorboat in violation of the provisions of this act.

79 A violation of this section shall be punished by a fine of \$50 for
80 a first offense, \$100 for a second offense and \$250 for all subse-
81 quent offenses.

82 Section 43. A person is exempt from the provisions of this act
83 under the following circumstances:

84 A nonresident, at least 12 years of age, who is temporarily
85 operating a motorboat on waters of the Commonwealth for less
86 than 60 days and complies with his/her state of residence certifi-
87 cate requirements or possesses a Canadian Pleasure Craft Opera-
88 tor's Card; or a person possesses a valid license to operate a
89 commercial vessel issued by the U.S. Coast Guard pursuant to 46
90 C.F.R., Part 10 or an equivalent license issued by a state or the
91 government of Canada; or a person who operates a motorboat
92 under training and is accompanied on-board and directly super-
93 vised by a competent person 18 years of age or older who holds a
94 valid boating certificate or is exempt pursuant to section 43 of this
95 act.

96 Section 44. The director may promulgate regulations deemed
97 necessary to implement the provisions of this act.

98 Section 45. “There is to be established on the books of the
99 commonwealth a separate fund to be known as the Boating Educa-
100 tion Trust Fund to be expended by the office of law enforcement
101 in the executive office of environmental affairs. Said fund shall
102 be expendable without further appropriation for the purposes of
103 funding the costs associated with the staffing, administration and
104 enforcement of this program pursuant to M.G.L c.90B and other
105 actions related thereto including but not limited to, the purchasing
106 of supplies and advertising. Said trust shall retain all interest
107 earned on sums deposited in the fund. All fees, fines and other
108 revenue collected and related to this program shall be deposited in
109 said fund. The trust fund may receive funds as may be appropriate
110 from time to time, as well as gifts and grants of money or other
111 contributions from any source, public or private and settlements,
112 fines or penalties not designated by law for other specific pur-
113 poses, to be expended within the purposes of this trust fund.